

Message Text

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ACTION NEA-09

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FM AMEMBASSY ABU DHABI

TO SECSTATE WASHDC IMMEDIATE 1703

UNCLAS ABU DHABI 0781

EO 11652: NA

TAGS: ABLDG, TC

SUBJ: COM RESIDENCE

REF: STERNER-WILLIAMSON TELCON JUNE 18, 1974; ABU DHABI 0764

SUMMARY:

POST#

WAS IDENTIFIED AND RECEIVED PRELIMINARY AGREEMENT FOR FINANCING CONSTRUCTION OF COM RESIDENCE ON A LEASE BASIS. BELIEVE THIS BEST AVAILABLE SOLUTION GIVEN GUIDELINES ESTABLISHED. WE NEED DEPARTMENT'S APPROVAL ASAP TO ENABLE US TO PROCEED.

1. AS I STATED IN REF TELCON, WE BELIEVE THAT WE HAVE FOUND A VIABLE SOLUTION WHICH IF APPROVED WOULD RESULT IN OUR MOVING AHEAD QUICKLY ON CONSTRUCTION OF A SUTIALBLE RESIDENCE FOR THE COM IN ABU DHABI. IF WE CAN GET QUICK DEPT APPROVAL TO PROCEED ON THIS BASIS, WE STAND GOOD CHANCE OF HAVING RESIDENCE READY FOR OCCPPANCY BY NEXT SUMMER. AS YOU WERE AWARE FROM REFTEL WE HAD BEEN NEGOTIATING WITH FNCB FOR FINANCING OF THE CONSTRUCTION. FNCB ASKED US FOR CERTAIN ASSURANCES WHICH MAY POSE LEGAL PROBLEMS FOR USG. ACCORDINGLY HOWEVER, WE FELT WE SHOULD EXPLORE OTHER POSSIBILITIES AND AS A RESULT WE HAVE BEEN ABLE TO OBTAIN A FIRM COMMITMENT ON FINANCE THE CONSTRUCTION ON A LEASE BASIS FROM THE BANK OF CREDIT AND COMMERCE-INTERNATIONAL S.A. (27.5 PERCENT OWNERSHIP BY BANK OF AMERICA). CREDIT AND COMMERCE WILLING TO PROCEED WITHOUT ASSURANCES OF TYPE FNCB ASKING FOR.

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2. THE BCC AGREEMENT IS THAT THEY WILL UNDERTAKE

TO HAVE CON-

STRUCTED A COM RESIDENCE TO COST UP TO DH ONE MILLION (254,453 DOLLARS) ON LAND WHICH WE HAVE FREE AND CLEAR TITLE TO IN ABU DHABI TOWN. UPON COMPLETION OF THE RESIDENCE, WE WOULD BE EXPECTED TO PAY ANNUALLY IN ADVANCE LEASE PAYMENTS EQUAL TO 16PERCENT OF THE TOTAL COST OF THE BUILDING FOR A PERIOD OF NINE YEARS, 5 MONTHS. NO OTHER INSTITUTION WAS ABLE TO GO THIS FAR, MOST WERE ONLY WILLING TO GO ONLY FIVE YEARS. USING THE ONE MILION DIRHAM FIGURE AS A MAXIMUM, THE ANNUAL COSCSAT 16.1888 WORKS OUT TO BE 41,193 DOLLARS ANNUALLY.

3. WITH REGARD TO CONTRACTS, THE BANK PROPOSES THAT DURING THE PERIOD OF PLANNING AND CONSTRUCTION, THE FOLLOWING INTERIM LEASE BE BINDING ON THE USG, TO BE SUPERCEDED BY A FINAL LEASE WITH ONLY CHANGES BEING SUBSTITUTION OF SPECIFIC UAE DIRHAM FIGURE INSTEAD OF PERCENTAGE OF TOTAL COMPLETED VALUE.

4. INTERIM LEASE CLAUSES ARE AS FOLLOWS:

(1) STANDARD USG LEAF CLAUSE IDENTIFYING PARTIES.

(2) THE LESSOR HEREBY AGREES TO HAVE CONSTRUCTED A VILLA AT A TOTAL COST UP TO UAE DIRHAM ONE MILLION, ACCORDING TV THE LESSEE'S SPECIFICATIONS ON A PLOT OF LAND TO WHICH THE LESSEE HAVE FREE AND CLEAR TITLE AND TO WHICH THE LESSEE HEREBY AGREES TO ASSIGN THE TITLE AND ALL RIGHTS TO SAID PLOT OF LAND TO LESSOR FOR THE DURATION OF THE LEASE. SAID VILLA IS TO BE USED AS A DIPLOMATIC RESIDENCE IN ABU DHABI TOWN FOR SUCH PURPOSES AS THE LESSEE MAY DESIRE, THIS LEASE CANCELLING ALRMOTHER AGREEMENTS HERETOFORE ENTERED INTO BY THE SAID PARTIES RELATING IN ANY WAY TO THE SAID PREMISES HEREIN DESCRIBED. IT IS FURTHER NOTED THAT THE LESSEE, WITH THE CONSENT OF THE LESSOR MAY MAKE AMENDMENTS TO THIS LEASE IF ANY.

(3) THE LESSEE IS TO HAVE AND TOHKELD THE SAID PREMISES WITH THEIR APPURTENANCES FOR THE TERM OF NINE YEARS FIVE MONTHS (9.42 YEARS) BEGINNING UPON COMPLETION OF THE VILLA AND ENDING NINE YEARS FIVE MONTHS THEREAFTER. UPON RECEIPT OF THE LAST PAYMENT WE SHALL RETURN ALL DOCUMENTATION TO YOU, AND YOU SHALL BECOME FULL OWNERS OF THE VILLA AND SURROUNDS.

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(4) IT IS FURTHER UNDERSTOOD AND AGREED THAT IN CASE THE LESSEE DECIDES TO REMOVE HIS ESTABLISHMENT FROM ABU DHABI, THE LESSEE SHALL BE AT LIBERTY TO TERMINATE THIS LEASE UPON GIVING NOTICE TO THE LESSOR 60 DAYS IN ADVANCE, WITHOUT THE LESSOR HAVING RIGHT TO ANY PAYMENT OTHER THAN THE ADVANCE PAYMENT ALREADY RECEIVED BY THE LESSOR.

(5) THE LESSEE SHALL BE RESPONSIBLE AT HIS OWN EXPENSE, FROM THE EFFECTIVE DATE OF THE LEASE UNTIL TERMINATION OF THE LEASE FOR THE FOLLOWING:

A) MAINTENANCE OF THE SAID PREMISES IN GOOD VQYAIR AND TENABLE CONDITION, INCLUDING ALL REPAIRING AS AND WHEN REQUIRED, DAMAGE ARISING FROM THE ACT OF NEGLIGENCE OR OTHERWISE OF THE LESSEE, HIS AGENTS OR EMPLOYEES, OR ANY OTHER PERSON;

B) OPERATING EXPENSES OF THE VILLA INCLUDING SEWAGE DISPOSAL, ELECTRICITY, WATER, OR ANY OTHER RECURRING CHARGE;

C) ALL TAXES AND FOR ANY OTHER CHARGES OF A PUBLIC NATURE WHICH ARE OR MAY BE ASSESSED AGAINST THE PROPERTY (INCLUDING THE VILLA);

D) ANY OTHER CHARGES INCURRED IN CONNECTION WITH THE OPERATION AND MAINTENANCE OF THE VILLA.

(6) THE LESSEE SHALL HAVE THE RIGHT, DURING THE EXISTENCE OF THIS LEASE, TO MAKE ALTERATIONS, ATTACH FIXTURES AND ERECT ADDITIONS, STRUCTURES IN OR UPON THE PREMISES HEREBY LEASED. THE FIXTURES, ADDITIONS, OR STRUCTURES SO PLACED IN OR UPON OR ATTACHED TO THE SAID PREMISES SHALL BE AND REMAIN THE PROPERTY OF THE LESSEE AND MAY BE REMOVED THEREFROM BY THE LESSEE PRIOR TO THE TERMINATION OF THIS LEASE AS PROVIDED FOR IN PARAGRAPH THREE ABOVE, OR WITHIN A REASONABLE PERIOD AFTER THE LEASE IS TERMINATED; AND THE LESSEE, IF REQUIRED BY THE LESSOR, SHALL RESTORE THE PREMISES TO THE SAME CONDITION AS THAT EXISTING AT THE TIME OF ENTERING UPON THE SAME UNDER THIS LEASE. PROVIDED, HOWEVER, THAT IF THE LESSOR REQUIRES SUCH RESTORATION, THE LESSOR SHALL GIVE WRITTEN NOTICE THEREOF TO THE LESSEE 30 DAYS BEFORE THEHLERMINATION OF THE LEASE.

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(7) WHENEVER SAID PREMISES OR ANY ESSENTIAL PART THEREOF SHALL BE DESTROYED BY FIRE, EARTHQUAKE, WAR, CIVIL DISTURBANCES OR OTHER CASUALTY, THIS LEASE SHALL, IN CASE OF TOTAL DESTRUCTION OR INJURY TERMINATE UPON RECEIPT BY LESSOR FROM LESSEE OF ALL UNPAID LEASE PAYMENTS. IN THE EVENT THE ABOVE EVENT-UALITIES OCCUR, LESSEE SHALL RESTORE SAID PREMISES TO THE SAME CONDITION AS THAT EXISTING AT THE TIME OF ENTERING UPON THE SAME UNDER THE LEASE, OR PAY LESSOR THE REMAINING UNPAID LEASE PAYMENTS.

(8) THE LESSEE SHALL PAY THE LESSOR FOR THE PREMISES RENTED AS FOLLOWS:

16.1888 PERCENT PER ANNUM PAID ANNUALLY IN ADVANCE AT THE COMPLETED COST OF SAID PREMISES FOR A PERIOD OF NINE YEARS

FIVE MONTHS COMMENCING AS OF THE COMPLETION DATE OF THE SAID PREMISES, DEPENDENT UPON ANNUAL APPROPRIATION OF FUNDS BY THE CONGRESS OF THE UNITED STATES OF AMERICA.

(9) STANDARD USG CONTRACT, ARTICLE 13.

(10) CLOSING AND SIGNATURES.

5. ARCHITECTS COLLABORATIVE (TAC) HAS INFORMED US THAT THEY HAVE ALREADY STARTED DESIGN AND THAT PRELIMINARY DRAWINGS WILL BE AVAILABLE BY JUNE 25.

6. ACTION REQUESTED: DEPT TO APPROVE AFOREMENTIONED CONTRACT AND ALLOCATE SUFFICIENT FUNDS TO COVER COSTS OF CONSTRUCTION AS STIPULATED IN CONTRACT. WISH TO EMPHASIZE THIS IS FAR AND AWAY BEST DEAL WE ARE LIKELY TO GET, WITH ANY OTHER INSTITUTION REQUIRING EITHER MUCH SHORTER PAY-BACK PERIOD OR ASSURANCES ABOUT FUTURE PAYMENTS WHICH USG LEGALLY CANNOT GIVE. QUESTION: WOULD PROPOSED INTERIM AGREEMENT BE SUFFICIENT TO OBLIGATE FY 74 FUNDS TO BE PAID OVER AS FIRST ANNUAL INSTALLMENT UPON COMPLETION OF STRUCTURE?
STERNER

NOTE BY OC/T: (#) AS RECEIVED.
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